

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF DECEMBER 2016

PRESENT

THE HON'BLE MR.JUSTICE H.G.RAMESH

AND

THE HON'BLE MR.JUSTICE JOHN MICHAEL CUNHA

WRIT PETITION No.30424/2015 (GM-KLA)

BETWEEN:

TOWN MUNICIPAL COUNCIL

SAKALESHPUR -573 134

SAKALESHPUR TALUK

HASSAN DISTRICT

REPRESENTED BY ITS CHIEF OFFICER

SRI S.S.MANJUNATH

...PETITIONER

(BY SRI D.L.JAGADEESH, SENIOR ADVOCATE FOR
SRI LOHITASWA BANAKAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPT. OF MUNICIPAL ADMINISTRATION
VIDHANA SOUDHA
BENGALURU -560 001
BY ITS SECRETARY
2. THE HON'BLE UPALOKAYUKTA-2
IN KARNATAKA, M.S. BUILDING
Dr.AMBEDKAR ROAD
BENGALURU -560 001
REPRESENTED BY ITS REGISTRAR
3. SRI. DEVARAJ, S/O SIDDIAH
AGED ABOUT 40 YEARS
R/A MALALI VILLAGE
SAKALESHPUR TALUK -573 134
HASSAN DISTRICT

4. SRI.KUMARA
S/O.VASANTH KUMAR
AGED ABOUT 39 YEARS
R/A. MALALI VILLAGE
SAKALESHPUR TALUK -573 134
HASSAN DISTRICT

...RESPONDENTS

(BY SRI VASANTH V.FERNANDES, HCGP FOR R1;
SRI.G.DEVARAJ, ADVOCATE FOR R-2 AND
SRI.V.R.PRASANNA, ADVOCATE FOR R-3 AND R-4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN COMPLAINT UPA LOK/MYS-487/2009/DRE-3, ON THE FILE OF THE R2 AS PER THE COMPLAINT DT.11.9.2009 VIDE ANNEX-G & G1 TO THE W.P. AND ETC.

THIS WRIT PETITION COMING ON FOR HEARING, THIS DAY, **H.G.RAMESH J.**, MADE THE FOLLOWING:

ORDER

H.G.RAMESH, J. (ORAL):

1. In this writ petition, petitioner is challenging the proceeding initiated by Upalokayukta, in case No.COMPT/UPLOK/MYS/487/2009.
2. We have heard learned Senior Counsel appearing for the petitioner and learned counsel appearing for the respondents.
3. The sole contention urged by the learned Senior Counsel is that the Upalokayukta ought not to have proceeded with the aforesaid complaint case, in view of the

order dated 10.8.2010 passed by a Division Bench of this Court in W.P.No.22553/2009. It is relevant to refer to paras 3 & 4 of the order passed in the aforesaid writ petition which read as follows:

"3. Pursuant to the motion bench order passed by this Court on 29.07.2010, learned Government counsel has handed over to us a project report for the Integrated Municipal Solid Waste Management System for Sakaleshpur i.e., the site where the dumping ground has been planned. The report demonstrates the manner in which the aforesaid project would be executed. The only impediment in the execution of the project, we are told is financial. However, learned Government Counsel on instructions from the Deputy Commissioner, Hassan, who is present in Court in person states, that release of funds for the project in terms of the recommendation made in the report is not a serious issue and that funds will be positively released within eight weeks.

4. In view of the statement made to us, immediately on receipt of funds, the 6th respondent shall execute the project, in terms of the project report, without any further delay."

4. It is stated that in view of the order in the aforesaid writ petition steps are being taken by the petitioner-Municipality to implement the Integrated Municipal Solid Waste Management system for Sakaleshpur as per the project report referred to therein.

5. Learned counsel appearing for the Upalokayukta fairly and rightly submitted that the Upalokayukta cannot proceed

further in the complaint case in view of the order dated 10.08.2010 in W.P.No.22553/2009 rendered by a Division Bench of this Court which is referred to above.

6. As there is already a direction by a Division Bench of this Court in writ petition No.22553/2009 to execute the Solid Waste Management system in terms of the project report, considering the complaint by Upalokayukta to re-locate the project is not permissible in law. Therefore, Upalokayukta shall not proceed further in case No.COMPT/UPLOK/MYS/487/2009.

Petition disposed of.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

Bss.